Bench 13

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~962~~ 356

ROBERT PORTNER AND FREDERICK RECKER, PLAINTIFFS IN ERROR,

vs.

WILLIAM G. CAZENOVE.

IN ERROR TO THE SUPREME COURT OF APPEALS OF THE COMMONWEALTH OF VIRGINIA.

Supreme Court

FILED FEBRUARY 18, 1868.

No appearance
Writ of Error
Affirmed with Costs

SUPREME COURT OF THE UNITED STATES.

No. 262.

ROBERT PORTNER AND FREDERICK RECKER, PLAINTIFFS IN ERROR,

vs.

WILLIAM G. CAZENOVE.

IN ERROR TO THE SUPREME COURT OF APPEALS OF THE COMMONWEALTH OF VIRGINIA.

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1 To the Hon. R. C. L. Moncure, judge of the Supreme Court of Appeals:

The petition of Robert Portner and Frederick Recker respectfully represents, that they are aggrieved by a final judgment of the District Court of Appeals for the fourth district of Virginia, rendered at a term thereof at Fredericksburg, in July, 1867, in an action wherein your petitioners were appellants and William G. Cazenove was appellee.

A transcript of the record is herewith presented, by which it appears that the subject-matter in controversy exceeds the sum of one thousand dollars, and that the said District Court of Appeals,
2 at the time at which the case was decided, entered of record that it involved questions of such novelty and difficulty as to make it proper that it should be finally determined in the Supreme Court of Appeals.

Your petitioner assigns as errors:

First. That the judgment of the court is not warranted by the facts found by the special verdict.

Second. The errors complained of in the petition for a supersedeas from the District Court to the Circuit Court, wherein the case was first tried.

For the said errors your petitioner prays a writ of supersedeas to the judgment aforesaid.
3

ROBERT PORTNER.
FRED. RECKER.

By W. WILLOUGHBY,
Att'y.

Supersedeas awarded. Bond with security to be given in the penalty of five hundred dollars, with condition as the law directs.
July 19th, 1867.

R. C. L. MONCURE.

To the clerk of the Supreme Court of Appeals, Richmond.

4 VIRGINIA:

Pleas at the court-house in the town of Fredericksburg, before the District Court for the fourth judicial district, on Monday, the 15th day of July, 1867.

Be it remembered, that heretofore, to wit, on this day of April, 1867, was issued out of the said District Court, a writ of supersedeas to a decree of the Circuit Court of Alexandria county, pronounced on the 25th day of February, 1867, in a suit depending in the said court between William G, Cazenove, plaintiff, and Robert Portner, and Frederick Recker, defendants, (which writ was never returned.)

The following is a copy of the petition for the supersedeas
5 order in vacation of a judge of this court awarding the same, and of the record of the Circuit Court of Alexandria county:

6 District Court of Appeals of Virginia, District IV.

PORTNER & RECKER
vs.
CAZENOVE.

To the Honorable R. C. L. Moncure, judge of the District Court of Appeals for the fourth district of Virginia:

The petition of Robert Portner and Frederick Recker respectfully represents that they are aggrieved by a final judgment of the Circuit Court of the ninth judicial circuit sitting in Alexandria county, rendered at a special term thereof held in February, 1867, in an action wherein William G. Cazenove was plaintiff and your petitioners were defendants.

A transcript of the record is herewith presented.

Your petitioners assign the following errors in the final judgment:

The judgment of the court is not warranted by the facts found by the special verdict.

The defendants claim a right to the premises in controversy by reason of a purchase thereof at a tax sale by the United States tax commissioners, under the act of Congress of 1862 and amendments thereto, in relation to the collection of taxes in insurrectionary districts, as shown by the certificate of sale mentioned in the special verdict. By that act this certificate of sale is prima facie evidence of the regularity and validity of the sale, and is conclusive evidence of such regularity and validity, except as to these particulars, to wit, as to whether the property was subject to taxes, or that the taxes had been paid previous to sale, or that the property had been redeemed according to the provisions of the act.

It is not pretended that the property was not subject to taxes.

It is claimed by the plaintiff that a tender of the taxes to the commissioner before the day of sale by a party in the occupation of the premises, but not as a tenant or owner, was sufficient to have prevented such sale, and that such sale was irregular on that account.

7 But the law directs that such sale shall be made unless this tender of payment is made by the owner in person. No other person can make such payment before the sale.

This, it is contended by us, is not a sufficient compliance with the terms of redemption.

It is claimed by the plaintiff that the tax commissioners had no authority to sell only a sufficient amount to pay the taxes, penalty, and costs.

In answer to this it is insisted—

First. That the plaintiff is concluded from making any inquiry upon this subject, this not being one of the reasons for which the certificate of sale can be impeached as evidence of the validity of the sale.

Second. That if such inquiry can be made the law prescribes that the property subject to taxation becomes forfeited to the United States on non-payment of taxes, and shall be sold.

It provides that if it does not bring more than two-thirds of its assessed value, the commissioners may bid it in for the use of the

government. It also provides what shall be done with the money arising from such sales over and above what is sufficient to pay the taxes, penalty, and costs.

The commissioners, therefore, did not exceed their authority in selling the whole of the land which had previously become forfeited to the United States.

For the said errors your petitioners pray a writ of supersedeas to the judgment aforesaid.

ROBERT PORTNER.
FRED. RECHER.
By W. WILLOUGHBY, *Att'y.*

I, Westie Willoughby, an attorney practicing in the District Court of Appeals for the fourth district of Virginia, do certify that in my opinion there is sufficient matter for reversing the judgment complained of in the foregoing petition.

W. WILLOUGHBY.

A writ of supersedeas is awarded. Bond with surety to be given in the penalty of five hundred dollars, conditioned as the law directs.
April 26th, 1867.

R. C. L. MONCURE.

To the clerk of the District Court, holden at Fredericksburg.

8 VIRGINIA:

Pleas at the court-house in the county of Alexandria, before the judge of the Circuit Court for said county, on the 25th day of February, 1867.

Be it remembered, that heretofore, to wit, at a Circuit Court continued and held for said county of Alexandria, on the 28th day of November, 1865:

Declaration filed by consent.

Came as well William G. Cazenove, by his attorney, as Robert Portner and Frederick Recker, by their attorney, and by consent of parties the said Cazenove filed his declaration in ejectment against said Portner and Recker; which declaration is in these words:

Declaration.

In the Circuit Court of Alexandria county, Virginia, November term, 1865.

ALEXANDRIA COUNTY, *to wit:*

William G. Cazenove complains of Robert Portner and Frederick Recker, for this, to wit: That heretofore, to wit, on the 1st day of

January, 1864, the said plaintiff was possessed of two tenements and lots of ground in the city of Alexandria, in the county aforesaid, situated as follows:

The first. Beginning at the southwest intersection of Duke and St. Asaph streets, and running thence west on Duke street 120 feet to an alley 6 feet 10 inches wide; thence on said alley south parallel to St. Asaph street 55 feet; thence east parallel to Duke street 120 feet to St. Asaph street; thence on St. Asaph street, north 55 feet to the beginning, with the right of way over said alley.

The second. Beginning at a point on the south side of Duke street, 76 feet east of Washington street, and running thence east on Duke street 24 feet; thence south parallel to Washington street 100 feet to a 10 feet alley; thence west on said alley parallel to Duke street 24 feet; thence north 100 feet to the beginning, with right of way over said alley; which said tenements and lots of ground he the said plaintiff claims in fee. And he the said plaintiff being so possessed thereof, the said defendants afterwards, to wit, on the day of January, 1854, entered into the said premises and ejected the
9 said plaintiff therefrom, and unjustly withhold from the plaintiff the possession thereof, to the damage of the plaintiff $5,000, and therefore he brings suit, &c.

S. FERGUSON BEACH,
Attorney for Plaintiff.

Cause docketed.

Whereupon the said cause was docketed by like consent.

Not guilty.—Rep'n and issue.

And the defendants pleaded not guilty, and therefore put themselves upon the country, and the plaintiff does the like.

And at another day, to wit, at a Circuit Court continued and held for said county of Alexandria, on the 6th day of December, 1866, (to which day this cause had been regularly continued.)

Case agreed.

This day came the parties by their attorneys, and a case was agreed by them to be argued in lieu of a special verdict, which case is in the words and figures following, to wit:

On the day of , 1861, the plaintiff was seized in fee of the premises described in his declaration, and that he has not conveyed the same or any interest therein; and that afterwards, on the day of , 1864, the defendants, without his knowledge or consent, entered the said premises and have ever since held the possession. That under and by virtue of the act of Congress approved August 5th, 1861, entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," and the act of Congress approved June 7th, 1862, entitled "An act for

the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," and the acts amendatory thereto, on the day of March, 1863, John Hawxhurst, Gillet F. Watson, Wm. J. Boreman, were duly appointed a board of tax commissioners for the State of Virginia, and that they were each duly commissioned and qualified, having given the security required by the said law. And that on the 14th day of September, 1863, they entered upon the discharge of the duties of their office, and opened an office for the transaction of busness in the city of Alexandria, State of Virginia, and that afterwards, on the day of January, 1864, the said Wm. J. Boreman resigned his said office, and thereupon A. Lawrence Foster was duly appointed to fill the vacancy occasioned by the resignation of the said W. J. Boreman, and was duly commissioned and qualified, and gave the required security and entered upon the discharge of his duty as tax commissioner; that the said board of tax commissioners on the 14th day of September, 1863, fixed the amount of tax charged upon said land under said law of Congress, and under the act of Congress, at thirteen dollars fifty cents. That the taxes charged upon said land were not paid within sixty days from the time the amount of said tax was fixed by the commissioners as provided for in the 3rd section of said act of Congress of June 7th, 1862, and that the said board of commissioners thereupon caused the said land to be duly advertised to be sold at Alexandria, Virginia, on the 19th day of January, 1864, giving notice of the time and place of said sale according to the provisions of the sai act of June 7th, 1862, as amended by the act of Congress of Februar 6th, 1863, entitled "An act to amend an act entitled An act for th collection of direct taxes in insurrectionary districts within the Unite States, and for other purposes," approved June 7th, 1862; but o that day the sale was postponed by the commissioners until the 29t day of January, 1864; and that notice of said postponement was give by publication in the same newspaper which contained the origin advertisement of sale, and by oral notice to the persons present the time and place mentioned in the original advertisement; that pu suant to said notice and postponement at said place and time to whi it was postponed, the said board of tax commissioners caused the sa land to be duly sold in accordance with the provisions of said laws the defendants, they being the highest bidders therefor, for the su of $4,250. That the defendants thereupon paid to the said comm sioners the said sum of money agreeably to the provisions of the sa acts, and thereupon they received from said commissioners their c tificate of sale; which certificate of sale was duly issued and deliver by said board of commissioners to the defendants, and is in words a figures as follows:

No. 94.

UNITED STATES OF AMERICA—TAX SALE CERTIFICATE—No. 32.

This is to certify, that at a sale of lands for unpaid taxes, un and by virtue of an act entitled "An act for the collection of dir

taxes in insurrectionary districts within the United States, and for other purposes," held pursuant to notice at Alexandria, in the county of Alexandria, in the State of Virginia, on the 29th day of January, A. D. 1864, the lot or parcel of land hereinafter described, situate in the city of county of Alexandria, and State aforesaid, and described as follows, to wit: house, corner Duke and St. Asaph streets, and said to have belonged to W. G. Cazenove, and charged to him on the land book of the State aforesaid, for the year eighteen hundred and 11 sixty, valued at five thousand dollars, (the above description is supposed to include the lot or whatever was included in the valuation made upon the book from which the above description was taken,) was sold and struck off to Portner and Recker for the sum of four thousand two hundred and fifty dollars and cents, he being the highest bidder and that being the highest sum bidden for the same, the receipt of which said sum in full is hereby acknowledged and confessed.

Given under our hands, at Alexandria, this 29th day of January, A. D. 1864.

JOHN HAWXHURST,
GILLETT F. WATSON,
A. LAWRENCE FOSTER,
Commissioners.

STATE OF VIRGINIA:

ALEXANDRIA COUNTY COURT,
Clerk's Office, February 6, 1664.

The above certificate of sale was this day received in the office and admitted to record.

Teste:

JEFFERSON TACEY, *Clerk.*

On the day of , 1864, the defendants took possession of the said land and still hold the possession thereof; that on the day of , 1864, the property had been advertised for sale by the tax commissioners, but before the arrival of the day fixed for sale and before the property was offered for sale, John P. Agnew, then being in possession of the property but not under any agreement with the owner for such possession, in order to rescue the property from sale, and upon his own motion, having no authority, unless subsequently conferred from the owner, tendered to the tax commissioners the full amount of the tax, penalty, interests, any costs levied, charges due or in anywise accrued on and against said property, under the said acts of Congress and the amendments thereto; that the amount of tax, penalty, costs, &c., was less than forty dollars; that the property sold by said tax commissioners consists of a valuable dwelling house, fronting on St. Asaph street, Alexandria, Va., of an adjoining a vacant lot fronting on the same street, and used in conjunction with said dwelling, or a part of the dwelling lot; that the said lot could have been separated from the residue of the property, and could have been sold for more than sufficient to

pay the said amount of tax, interest and costs; that the following is a copy of the commissioners' advertisement of sale, to wit: No. 94 house corner of Duke and St. Asaph, said to belong to Wm. G. Cazenove; valuation $5,000; tax thirteen dollars and fifty cents; penalty six dollars and seventy-five cents. That under the afore-
12 said certificate of the commissioners, the defendants claim and occupy a detached lot also fronting on Washington street, and separated from the aforesaid house and lot by an intervening alley and an intervening lot, not belonging to said Cazenove, and that said detached lot was included in the valuation made upon the land-book of the county of Alexandria, Virginia, for the year 1860. That said detached lot might have been separated from the residue of the property without prejudice to it, and have been sold for more than sufficient to pay the said tax, penalty, interests, costs, and all expenses.

S. F. BEACH,
Attorney for Plaintiff.
HILL & TUCKER,
Attorneys for Defendants.

And now at this day, to wit, at a special term of the Circuit Court held for said county of Alexandria, on the day and year first herein mentioned, to wit, the 25th day of February, in the year 1867. This day came the parties by their attorneys, and thereupon the matters of law arising upon the case agreed in this cause being argued, it seems to the court that the law is for the plaintiff.

Judgment.

Therefore it is considered by the court that the plaintiff recover against the defendants the possession of the premises, according to the description thereof in the declaration, and the oosts by him about his suit in this behalf expended.

Hab. fa. poss. awarded.

And on the motion of the said plaintiff, a writ of possession is awarded him to the sheriff, directed to cause him to have his possession of the said premises.

Execution stayed.

And on the motion of the said defendants, the execution of the judgment in this cause is stayed for sixty days.

A complete copy from the record.

Teste: JEFF'N TACEY, *Clerk.*

☞ The inaccuracies in the foregoing record are according to the MS.

13 And now at this day, to wit, the aforesaid 15th day of July, 1867, came the parties by their counsel, and the court having maturely considered the transcript of the record of the decree aforesaid, and the arguments of counsel, is of opinion that there is no error in the said decree; therefore it is considered that the same be affirmed, and that the appellants do pay unto the appellee his costs by him about his defence in this behalf expended, and also one dollar damages, which is ordered to be certified to the said Circuit Court.

But it is ordered to be entered of record that this case involves questions of novelty or difficulty, as to make it proper that it should be finally determined by the Supreme Court of Appeals.

From the record, a copy.

Teste: J. J. CHEW, *C. C.*

Appellants costs $.

14 VIRGINIA:

At a Supreme Court of Appeals held at the capitol, in the city of Richmond, on Wednesday, January 20th, 1868, Robert Portner and Frederick Recker plaintiffs, against William G. Cazenove, defendant, upon a writ of supersedeas to a judgment rendered by the District Court for the fourth judicial district, held at the town of Fredericksburg on the 15th day of July, 1867, between the plaintiffs and defendant, affirming a judgment of the Circuit Court of Alexandria county.

15 This day came the parties by their counsel, and the court having maturely considered the [the] transcript of the record of the judgment aforesaid, and the arguments of counsel, is of opinion, for rersons stated in writing and filed with the record, that there is no error in the said judgment; therefore it is considered that the same be affirmed, and that the defendant recover against the plaintiffs thirty dollars damages, and also his costs by him about his defence in this behalf expended, which is ordered to be certified to the said District Court.

Defendant's costs in District Court in the Court of Appeals $21 68.

16 STATE OF VIRGINIA, *City of Richmond, to wit*:

I, M. T. Starke, clerk of the Supreme Court of Appeals of Virginia, do hereby certify that the foregoing are true transcripts from the records of my office.

In testimony whereof I have hereunto set my hand, (there being no seal of office,) this 27th day of January, 1868.

M. T. STARKE, *C. C.*

VIRGINIA, *Office of the Secretary of the Commonwealth*:

I, J. M. Herndon, secretary of the Commonwealth of Virginia, do certify that M. T. Starke, whose genuine signature is attached to the

foregoing certificate, is the clerk of the Supreme Court of Appeals of Virginia, duly appointed and qualified.

In testimony whereof I have hereto subscribed my name and affixed my official seal this 29th day of January, A. D. 1868.

[L. S.] J. M. HERNDON,
Sec'y of Com'th.

17 Hon. Salmon P. Chase, Chief Jnstice of the Supreme Court of the United States.

The petition of Robert Portner and Frederick Recker respectfully represents that a certain judgment was rendered against your petitioners, at the suit of William G. Cazenove, at a Circuit Court for the county of Alexandria, in the State of Virginia, held on the 25th day of February, in the year 1867, in which suit your petitioners set up and claimed a right, title, privilege, and exemption under certain statutes of the United States, whereby was drawn in question the construction of the Constitution and of certain clauses of said statutes of the United States, and in which suit the decision and judgment was against the right, title, privilege, and exemption, so claimed as aforesaid, which said judgment was afterwards in all things affirmed by a final judgment of the Supreme Court of Appeals of the Commonwealth of Virginia, on the appeal of your petitioner in that behalf, to wit, on the 27th day of January, 1868, as appears by
18 the records; that in said suit, which was an action brought by said William G. Cazenove to recover from your petitioners the possession of certain real estate in said county of Alexandria, which said Cazenove claimed that your petitioners unlawfully withheld from him, your petitioners set up and claimed as their defense a right to such possession by virtue of a certificate of sale made to them by the tax commissioners of the United States under the act of Congress of June 7th, 1862, entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," and the amendments thereto.

Your petitioners, at the time of entering their appearance in such Circuit Court, filed a petition stating the facts, showing that they took and held possession of such premises by virtue and under color of an authority derived from an act of Congress, and verified by affidavit, for the removal of said cause for trial at the then
19 next Circuit Court of the United States to be holden in the district where the suit was pending, and tendered surety, as required by the act of Congress of March 3d, 1863, entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," and the amendments thereto.

The court denied the said petition, and adjudged that the filing thereof was not sufficient cause for the removal as prayed, which decision and judgment were contrary to the provisions of said acts of Congress.

The court also held and adjudged, that such certificate of sale was not such evidence of title as the said act prescribes, and that your petitioners had no right to the possession of said premises by virtue

of said certificate of sale, which said judgment was contrary to the provisions of the acts of Congress aforesaid.

Wherefore your petitioners pray your honor to allow a writ of error to the said Supreme Court of Appeals of the State of Virginia, being the highest court of law of the said State in which a
20 decision of the said suit could be had, and in which final judgment was entered, as appears of record, for the correction of the errors aforesaid, and the reversal of the judgment aforesaid, according to the form of the statute in such case made and provided.

ROBERT PORTNER.
FREDERICK REEKER,
By W. WILLOUGHBY, *Att'y.*

The writ of error is allowed as prayed, to issue with citation on filing bond with approved security in the penalty of three thousand dollars, ($3,000.)

S. P. CHASE,
Chief Justice U. States.

Endorsed: A copy of the within petition was filed in my office on the 5th day of Feb., 1868. M. T. Starke, clerk of the Supreme Court of Appeals of Virginia.

21 THE UNITED STATES OF AMERICA, *ss*:

The President of the United States to the honorable the judges of the Supreme Court of Appeals of the Commonwealth of Virginia, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Supreme Court of the Commonwealth of Virginia before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Robert Portner and Frederick Recker, appellants, and William G. Cazenove, appellee, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such
22 their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened to the great damage of the said Robert Portner and Frederick Recker, as by their complaint appears: We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be

therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the Honorable Salmon P. Chase, Chief Justice of the said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and sixty-seven.

Issued January 30th, 1868.

D. W. MIDDLETON,
Clerk of the Supreme Court of the United States.

Allowed by—

S. P. CHASE,
Chief Justice U. States.

I certify that a copy of this writ was filed in my office on the 5th day of February, 1868.

M. T. STARKE,
Clerk of the Supreme Court of Appeals of Va.

23 The United States of America to William G. Cazenove, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the Supreme Court of Appeals of the commonwealth of Virginia, wherein Robert Portner and Frederick Recker are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error as in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States this thirtieth day of January, in the year of our Lord one thousand eight hundred and sixty-eight.

S. P. CHASE,
Chief Justice U. States.

A copy of this citation was filed in my office on the 5th Feb., 1868.

M. A. STARKE,
Clerk of the Supreme Court of Appeals of Virginia.

Endorsed: Service of the within citation acknowleded this 3d day of February, 1868. S. Ferguson Beach, att'y for Wm. G. Cazenove.

24 Know all men by these presents, that we, Robert Portner, Frederick Recker, and Josiah Millard, are held and firmly bound unto William G. Cazenove, in the full and just sum of three thousand dollars, to be paid to the said William G. Cazenove, certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this twenty-ninth day of January, in the year of our Lord one thousand eight hundred sixty-eight.

Whereas lately at a Supreme Court of Appeals of the Commonwealth of Virginia, in a suit depending in said court between Robert Portner and Frederick Recker, appellants, and William G. Cazenove, appellees, judgment was rendered against the said Robert Portner and Frederick Recker, and the said Robert Portner and Frederick Recker having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said William G. Cazenove, citing and admonishing to appear at a Supreme Court of the United States to be holden at Washington the first Monday of December next:

Now the condition of the above obligation is such, that if the said R. Portner and Frederick Recker shall prosecute said writ of error to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

[SEAL.] JOSIAH MILLARD.
[SEAL.] R. PORTNER.
[SEAL.] F. RECKER.

Sealed and delivered in the presence of—
JOHN C. CLARKE.

Approved by—

S. P. CHASE,
Ch. Justice.

The original bond from which this is a copy was filed in my office on the 5th day of February, 1868.

M. T. STARKE,
Clerk of the Supreme Court of Appeals of Virginia.